

Feb 20 04 03:00 PM

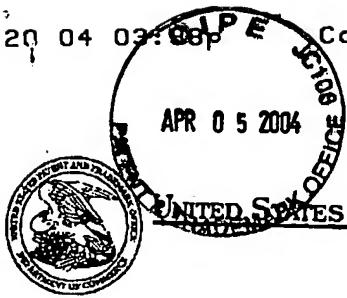
Colleen Sullivan

858-831-9330

p.3

APR 05 2004

UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|------------------------|-----------------------|------------------------|
| 10/627,553 | 07/24/2003 | Anthony Ross | 044RE1 |

30328
NU VASIVE, INC.
10065 OLD GROVE ROAD
SAN DIEGO, CA 92131

CONFIRMATION NO. 3530

FORMALITIES LETTER



OC000000011876195

Date Mailed: 02/11/2004

NOTICE TO FILE MISSING PARTS OF REISSUE APPLICATION

Filing Date Granted

An application number and filing date have been accorded to this reissue application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

Sufficient

- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- Consent of the assignee is present, but is unsigned. A statement of consent bearing the signature of an official authorized to act on behalf of the assignee(s) must be provided, to comply with 37 CFR 1.172.
- Assignee's statement under 37 CFR 3.73(b) is present, but is unsigned. A 37 CFR 3.73(b) statement bearing the signature of an official authorized to act on behalf of the assignee must be provided.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **\$65** for a Small Entity

- **\$65** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

04/07/2004 MBERHE 00000121 502040 10627553

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Feb 20 04 03:39p

Colleen Sullivan

858-831-9330

p. 4

Page 2 of 2

R. Rawls

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



PTO/SB/21 (02-04)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

| | | | |
|--|----|------------------------|----------------|
| | | Application Number | 10/627,533 |
| | | Filing Date | July, 24, 2003 |
| | | First Named Inventor | Anthony Ross |
| | | Art Unit | |
| | | Examiner Name | |
| Total Number of Pages in This Submission | 11 | Attorney Docket Number | 044REI |

ENCLOSURES (Check all that apply)

| | | |
|--|--|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> After Allowance communication to Technology Center (TC) |
| <input type="checkbox"/> Fee Attached | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input type="checkbox"/> Amendment/Reply | <input type="checkbox"/> Petition | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Power of Attorney, Revocation | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Change of Correspondence Address | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Terminal Disclaimer | |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> Request for Refund | |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | <input type="checkbox"/> CD, Number of CD(s) | |
| <input checked="" type="checkbox"/> Response to Missing Parts/Incomplete Application | Remarks | |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | 1. Signed Declaration 2. Assignee Statement 3. Assignment of Patent Application 4. Postcard | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | |
|-------------------------|-------------------|
| Firm or Individual name | Jonathan Spangler |
| Signature | |
| Date | 4-1-04 |

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

| | | |
|-----------------------|-------------------|--------|
| Typed or printed name | Jonathan Spangler | |
| Signature | | Date |
| | | 4-1-04 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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APR 05 2004

PTO/SB/17 (10-03)

Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRADE FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 65)

Complete if Known

| | |
|----------------------|---------------|
| Application Number | 10/627,533 |
| Filing Date | July 24, 2003 |
| First Named Inventor | Anthony Ross |
| Examiner Name | |
| Art Unit | |
| Attorney Docket No. | 044REI |

METHOD OF PAYMENT (check all that apply)

 Check Credit card Money Order Other None
 Deposit Account:

Deposit Account Number
502040

Deposit Account Name

The Director is authorized to: (check all that apply)

Charge fee(s) indicated below Credit any overpayments

Charge any additional fee(s) or any underpayment of fee(s)

Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

| Large Entity | Small Entity | Fee Description | Fee Paid |
|-------------------|---------------|------------------------|----------|
| Fee Code (\$) | Fee Code (\$) | | |
| 1001 770 | 2001 385 | Utility filing fee | |
| 1002 340 | 2002 170 | Design filing fee | |
| 1003 530 | 2003 265 | Plant filing fee | |
| 1004 770 | 2004 385 | Reissue filing fee | |
| 1005 160 | 2005 80 | Provisional filing fee | |
| SUBTOTAL (1) (\$) | | | 65 |

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

| Total Claims | Extra Claims | Fee from below | Fee Paid |
|--------------------|--------------|----------------|----------|
| | -20** = | X | = |
| Independent Claims | - 3** = | X | = |
| Multiple Dependent | | | = |

| Large Entity | Small Entity | Fee Description |
|-------------------|---------------|--|
| Fee Code (\$) | Fee Code (\$) | |
| 1202 18 | 2202 9 | Claims in excess of 20 |
| 1201 86 | 2201 43 | Independent claims in excess of 3 |
| 1203 290 | 2203 145 | Multiple dependent claim, if not paid |
| 1204 86 | 2204 43 | ** Reissue independent claims over original patent |
| 1205 18 | 2205 9 | ** Reissue claims in excess of 20 and over original patent |
| SUBTOTAL (2) (\$) | | 65 |

**or number previously paid, if greater. For Reissues, see above

3. ADDITIONAL FEES

| Large Entity | Small Entity | Fee Description | Fee Paid |
|-----------------------------------|---------------|--|----------|
| Fee Code (\$) | Fee Code (\$) | | |
| 1051 130 | 2051 65 | Surcharge - late filing fee or oath | 65 |
| 1052 50 | 2052 25 | Surcharge - late provisional filing fee or cover sheet | |
| 1053 130 | 1053 130 | Non-English specification | |
| 1812 2,520 | 1812 2,520 | For filing a request for ex parte reexamination | |
| 1804 920* | 1804 920* | Requesting publication of SIR prior to Examiner action | |
| 1805 1,840* | 1805 1,840* | Requesting publication of SIR after Examiner action | |
| 1251 110 | 2251 55 | Extension for reply within first month | |
| 1252 420 | 2252 210 | Extension for reply within second month | |
| 1253 950 | 2253 475 | Extension for reply within third month | |
| 1254 1,480 | 2254 740 | Extension for reply within fourth month | |
| 1255 2,010 | 2255 1,005 | Extension for reply within fifth month | |
| 1401 330 | 2401 165 | Notice of Appeal | |
| 1402 330 | 2402 165 | Filing a brief in support of an appeal | |
| 1403 290 | 2403 145 | Request for oral hearing | |
| 1451 1,510 | 1451 1,510 | Petition to institute a public use proceeding | |
| 1452 110 | 2452 55 | Petition to revive - unavoidable | |
| 1453 1,330 | 2453 665 | Petition to revive - unintentional | |
| 1501 1,330 | 2501 665 | Utility issue fee (or reissue) | |
| 1502 480 | 2502 240 | Design issue fee | |
| 1503 640 | 2503 320 | Plant issue fee | |
| 1460 130 | 1460 130 | Petitions to the Commissioner | |
| 1807 50 | 1807 50 | Processing fee under 37 CFR 1.17(q) | |
| 1806 180 | 1806 180 | Submission of Information Disclosure Stmt | |
| 8021 40 | 8021 40 | Recording each patent assignment per property (times number of properties) | |
| 1809 770 | 2809 385 | Filing a submission after final rejection (37 CFR 1.129(a)) | |
| 1810 770 | 2810 385 | For each additional invention to be examined (37 CFR 1.129(b)) | |
| 1801 770 | 2801 385 | Request for Continued Examination (RCE) | |
| 1802 900 | 1802 900 | Request for expedited examination of a design application | |
| Other fee (specify) _____ | | | |
| *Reduced by Basic Filing Fee Paid | | SUBTOTAL (3) (\$) | 65 |

SUBMITTED BY

(Complete if applicable)

| | | | | | |
|-------------------|-------------------|-----------------------------------|--------|-----------|--------------|
| Name (Print/Type) | JONATHAN SPANGLER | Registration No. (Attorney/Agent) | 40,182 | Telephone | 858-243-0029 |
| Signature | 2 | | | Date | 4-1-04 |

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Application Serial No.10/627,553
Attorney's Docket No. 044REI

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Patent Application of)
Anthony Ross) Group Art Unit: N/A
App. Ser. No. 10/627,553)
Filed: July, 24 2003)
For: METHOD OF TREATING AN)
INTERVERTEBRAL DISK)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA on:

Date: 4-1-04

Signature: [Handwritten Signature]

Printed Name: Jonathan D. Spangler

RESPONSE TO NOTICE TO FILE MISSING PARTS OF
REISSUE APPLICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

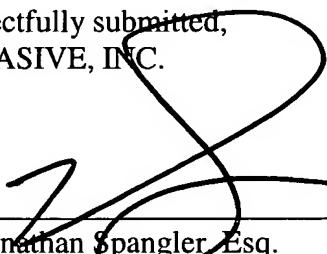
In response to the Notice to File Missing Parts mailed February 11, 2004, having a period for response by April 11, 2004, please find the following:

1. Copy of Notice to File Missing Parts (2 pgs);
2. Copy of Executed Declaration Under 37 CFR 1.63 (2 pgs);

3. Copy of Assignee's Statement Under 37 CFR 3.73(b) (1 pg);
4. Copy of Assignment of Patent Application (1 pg); and
5. Fee transmittal authorizing payment of \$65.00 fee for the late filed declaration (1pg).

Furthermore, no other fees are deemed necessary at this time. However, in the event that there are any additional fees to be charged or payments to be credited, the applicant hereby request that any charges or credits be made to Deposit Account No.: 502040 for Customer No.: 30328. In the event that there are any questions concerning the remarks above or the application in general, the Examiner is cordially invited to telephone the undersigned attorney so that prosecution may be expedited.

Respectfully submitted,
NUVASIVE, INC.

By: 
Jonathan Spangler, Esq.
Registration No. 40,182

10065 Old Grove Road
San Diego, CA 92131
Tel.: (858) 243-0029

Date: 4-1-04